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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161221

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 14, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 04, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective November 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

I

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Jose Sylvestre  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On July 18, 2014, the agency issued a Notice of Decision to the Petitioner informing her that she would receive \$231/month in FS benefits effective August 1, 2014. This was based on monthly

gross household income of \$1,074.78, rent of \$550/month, a standard deduction of \$152 and a utility standard of \$450/month.

3. On July 23, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her benefits would be reduced from \$231/month to \$96/month effective September 1, 2014. This was based on monthly gross household income of \$1,074.78, a standard deduction of \$152 and rent of \$550/month. No utility standard was allowed.
4. On September 8, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her benefits would increase from \$96/month to \$108/month effective October 1, 2014. This was based on monthly gross household income of \$1,074.78, a standard deduction of \$155 and rent of \$550/month.
5. On October 14, 2014, the Petitioner contacted the agency to report a new address and a change in rent expense.
6. On October 15, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her benefits would decrease from \$108/month to \$93/month effective November 1, 2014. This was based on monthly gross income of \$1,074.78, a standard deduction of \$155 and rent of \$500/month.
7. Petitioner's monthly household income includes \$303/month from Social Security Disability, \$83.78 from State Supplemental Security Income, \$437/month in Supplemental Security Income and \$250/month in Caretaker Supplement benefits.
8. Petitioner last received WHEAP benefits in May, 2013.
9. On October 14, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was \$152 per month for a two-person household until October 1, 2014 when it was revised to \$155 per month. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

On April 28, 2014, a change was made to the standard utility allowance/deduction available to household receiving FS benefits. See DHS Operations Memo 14-16. Households that have received a payment from the Wisconsin Housing Energy Assistance Program (WHEAP) in the previous 12 months receive the full Housing Standard Utility Allowance (HSUA) of \$450/month. Households that pay two or more non-heat qualifying utility expenses (phone, water, sewer, electric, cooking fuel, or trash) receive a Limited Utility Allowance (LUA) of \$313/month. Households that pay only a non-heat electric bill receive an Electric Utility Allowance (EUA) of \$153/month. Household that pay only water, sewer, septic tank installation/maintenance or wastewater treatment bills receive a Water and Sewer Utility Allowance (WUA) of \$80/month. Household that pay only a cooking fuel expense receive a Fuel Utility Allowance (FUA) of \$32/month. Households that pay only a telephone expense, including cell phones, receive a Phone Utility Allowance (PUA) of \$30/month. Households that pay only a trash or garbage bill receive a Garbage and Trash Utility Allowance (TUA) of \$18/month.

When the agency reviewed the Petitioner's case on or about July 18, 2014, it should have reviewed her eligibility for the utility standard allowance. Instead when the agency reviewed the case on or about July 23, 2014, it determined that Petitioner was not eligible for the utility standard allowance. This resulted in a reduction in her benefits. She then received a slight increase in benefits for October, 2014 due to an increase in the standard deduction. When the Petitioner's rent expense was reduced beginning November, 2014, her FS benefits were also reduced.

The Petitioner testified at the hearing that she does not pay separate utility bills for heat, electricity or other utilities with the exception of a monthly phone bill. At the time of the hearing, she had not provided verification of a monthly phone bill to the agency and she did not present evidence of a monthly phone bill at the hearing. She was advised to submit a phone bill to the agency for consideration of phone utility allowance.

The reduction in benefits for the Petitioner resulted from a change in policy regarding utility standard allowances. The Petitioner does not dispute that she does not pay separate utilities other than a phone bill. The reduction in benefits resulted from a reduced rent expense as well as the Petitioner not being eligible for a utility standard allowance. I have reviewed the budget screens and find that the agency properly determined the Petitioner's benefits based on the information provided to it.

### **CONCLUSIONS OF LAW**

The agency properly reduced the Petitioner's FS benefits effective November 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 3rd day of December, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 3, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability